UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,977	09/09/2003	Allan Todd Berry	40,730	1304

7590 11/16/2004	EXAMINER
Joseph G. Mitchell, Esq.	PARSLEY, DAVID J
4521 Derby Lane	
Smyrna, GA 30082	

ART UNIT	PAPER NUMBER
3643	

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/657,977	BERRY, ALLAN TODD
	Examiner	Art Unit
	David J Parsley	3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 September 2003*.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 September 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date *9-9-03*.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

Detailed Action

Specification

1.   Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it begins with an implied statement and it contains legal phraseology in particular the term "means". Correction is required. See MPEP § 608.01(b).

Claim Objections

2.   Claim 12 is objected to because of the following informalities: in line 10 delete "a". Appropriate correction is required.

Claim 5 is objected to because of the following informalities: in line 3 "monitor" should be - -monitors- -. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the associated processed chicken" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the processed chicken" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the processed chicken" in lines 9-10. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the inspector reject button" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the programmed internal electronic model" in lines 7-8. There is insufficient antecedent basis for this limitation in the claim.

Claims 2-7, 9-11 and 13-15 depend from rejected claims 1, 8 or 12 and include all of the limitations of claims 1, 8 or 12 thereby rendering these dependent claims indefinite.

Claim 11 recites the limitation "the chicken lines" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the actual chicken line data" in lines 2-3. There is

insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on
sale in this country, more than one year prior to the date of application for patent in the United States.
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
patent by another filed in the United States before the invention by the applicant for patent, except that an
international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
subsection of an application filed in the United States only if the international application designated the United
States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent

No. 6,254,472 to Meyn.

Referring to claim 1, Meyn discloses an apparatus to electronically automate the sorting

of chicken feet comprising, a sensing means – at 6-8 and 9-11, for tracking the chicken feet and

the associated processed chicken – see figure 3 and columns 4-5, a programmable means – at 17,

to track and store information received by the sensing means – see for example columns 4-5, and

a communication means – at 14-16, between the sensing means and the programmable means –

see for example columns 4-5.

Referring to claim 4, Meyn discloses the communication means comprises a data bus

communication cable – at 14-16 – see for example columns 3-5.

Referring to claim 7, Meyn discloses the programmable means compares the information received from the sensing means to an electronic model stored in the programmable means – see for example columns 3-5.

Claims 1, 3 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0139130 to Steffler et al.

Referring to claim 1, Steffler et al. discloses an apparatus to electronically automate the sorting of chicken feet in the category of edible or inedible, comprising, a sensing means – at 52-56 and/or 62-64 and/or 70-72, for tracking the chicken feet and the associated processed chicken, a programmable means – at 58, to track and store information received by the programmable means, and a communication means (inherent) between the sensing means and the programmable means – see for example paragraphs [0033]-[0051].

Referring to claim 3, Steffler et al. discloses the programmable means comprises a programmable logic card – see for example paragraphs [0040]-[0044].

Referring to claim 7, Steffler et al. discloses the programmable means compares the information received from the sensing means to an electronic model stored in the programmable means – see for example paragraphs [0033]-[0051].

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steffler et al. as applied to claim 1 above, and further in view of U.S. Patent No. 4,150,374 to Brook.

Referring to claim 2, Steffler et al. further discloses the sensing means comprises at least one photoelectric sensor – at 62 – see for example paragraph [0051] and at least one other sensor – at 52-56, 64 or 70-72. Steffler et al. does not disclose at least one inductive sensor. Brook does disclose at least one inductive sensor – at 15 – see for example column 3 lines 10-17. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Steffler et al. and add the sensing means with at least one inductive sensor of Brook, so as to allow for the location of the trolleys to be automatically determined by the device.

Referring to claim 5, Steffler et al. as modified by Brook further discloses the photoelectric sensor – at 62 of Steffler et al., monitors chicken line – at 34,35, movement – see for example figure 4 and paragraph [0051], and the inductive sensor – at 15 of Brook, monitors trolley – at 11, movement – see for example figures 1-3 and column 3 lines 10-17.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyn as applied to claim 1 above, and further in view of Steffler et al. Meyn does not disclose the programmable means comprises a programmable logic card. Steffler et al. does disclose the programmable means comprises a programmable logic card – see for example paragraphs [0040]-[0044]. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Meyn and add the programmable logic card of Steffler et al., so as to allow for the location of each animal/chicken to be automatically determined by the controls.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Steffler et al. as applied to claim 1 above, and further in view of Meyn. Steffler et al. does not disclose the

communication means comprises a data bus communication cable. Meyn does disclose the

communication means comprises a data bus communication cable – at 14-16 – see for example

columns 3-5. Therefore it would have been obvious to one of ordinary skill in the art to take the

device of Steffler et al. and add the communication means comprising a data bus communication

cable of Meyn, so as to allow for the controller to automatically exchange data/information with

the sensors.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyn or Steffler et

al. as applied to claim 1 above, and further in view of U.S. Patent Application Publication No.

2003/0065414 to van den Nieuwelaar et al. Meyn and Steffler et al. do not disclose the

programmable means receives reject information from an inspector reject button and compares

the reject information to the information received from the sensing means. van den Nieuwelaar et

al. does disclose the programmable means – at 12, receives reject information from an inspector

reject button – at 16, and compares the reject information to the information received from the

sensing means – at 8a-8e – see for example paragraph [0081]. Therefore it would have been

obvious to one of ordinary skill in the art to take the device of Meyn or Steffler et al. and add the

programmable means receiving information from the inspector reject button of van den

Nieuwelaar et al., so as to allow for data on each animal/carcass to be stored for reference or later

use.

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steffler et al.

in view of Brook.

Referring to claim 8, Steffler et al. discloses a process to electronically automate the

sorting of chicken feet in the category of edible or inedible comprising, monitoring chicken line

– at 34,35, movement using at least one photoelectric sensor – at 62, monitoring trolley

movement using at least one sensor – at 52-56 and/or 70-72, transferring information received

from the sensors to a programming means – at 58, and identifying when the chicken feet are

rejected as inedible using the programming means, the processed chicken with its associated

inedible chicken feet – see for example figures 1-4 and paragraphs [0033]-[0051]. Steffler et al.

does not disclose monitoring trolley movement with at least one inductive sensor. Brook does

disclose monitoring trolley movement with at least one inductive sensor – at 15 – see for

example column 3 lines 10-17. Therefore it would have been obvious to one of ordinary skill in

the art to take the process of Steffler et al. and add the sensing means with at least one inductive

sensor of Brook, so as to allow for the location of the trolleys to be automatically determined by

the device.

Referring to claim 9, Steffler et al. as modified by Brook further discloses the

programming means is a programmable logic card – see for example paragraphs [0040]-[0044]

of Steffler et al.

Referring to claim 10, Steffler et al. as modified by Brook further discloses the

photoelectric sensor – at 62, monitors line – at 34,35, movement and verify the presence of

chickens in the shackles – see for example figure 4 and paragraph [0051] of Steffler et al.

Referring to claim 11, Steffler et al. as modified by Brook further discloses the

programmable logic card monitors its electronic programmed model of the chicken lines against

the actual chicken line data measured by the sensors – at 52-56,62-64 and 70-72 – see for

example paragraphs [0033]-[0051] of Steffler et al.

Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steffler et

al. in view of Brook and van den Nieuwelaar et al.

Referring to claim 12, Steffler et al. discloses a process to electronically automate the

sorting of chicken feet in the category of edible or inedible, comprising, transferring input data

from photoelectric and other sensors – at 52-56, 62-64 and 70-72, located at various locations on

at least one chicken process line – at 34,35, receiving input data from the sensors into a

programming means – at 58, interpreting data in the programming means and updating the

programmed internal electronic model in the programming means, synchronizing the location of

the chicken feet and the location of the processed chicken in the programming means, and

identifying when the chicken feet are determined to be inedible, then the programming means

identifies the processed chicken and its associated inedible chicken feet – see for example

paragraphs [0033]-[0051].

Steffler et al. does not disclose transferring input data from inductive sensors located on

the chicken process line. Brook does disclose transferring data from inductive sensors – at 15,

located on the chicken line – see for example figures 1-3 and column 3 lines 10-17. Therefore it

would have been obvious to one of ordinary skill in the art to take the process of Steffler et al.

and add the sensing means with at least one inductive sensor of Brook, so as to allow for the

location of the trolleys to be automatically determined by the device.

Steffler et al. further does not disclose interfacing with the inspector reject button to

identify inedible chicken. van den Nieuwelaar et al. does disclose interfacing with an inspector

reject button – at 16, to identify the inedible chicken – see for example paragraph [0081].

Therefore it would have been obvious to one of ordinary skill in the art to take the device of

Steffler et al. and add the programmable means receiving information from the inspector reject button of van den Nieuwelaar et al., so as to allow for data on each animal/carcass to be stored for reference or later use.

Referring to claim 13, Steffler et al. as modified by Brook and van den Nieuwelaar et al. further discloses the programming means is a programmable logic card – see for example paragraphs [0040]-[0044] of Steffler et al.

Referring to claim 13, Steffler et al. as modified by Brook and van den Nieuwelaar et al. further discloses the photoelectric sensor – at 62, monitors line – at 34,35, movement and verify the presence of chickens in the shackles – see for example figure 4 and paragraph [0051] of Steffler et al.

Referring to claim 14 Steffler et al. as modified by Brook and van den Nieuwelaar et al. further discloses the programmable logic card monitors its electronic programmed model of the chicken lines against the actual chicken line data measured by the sensors – at 52-56,62-64 and 70-72 – see for example paragraphs [0033]-[0051] of Steffler et al.

Conclusion

6.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to the processing of chicken/fowl feet in general:

U.S. Pat. No. 3,622,000 to McClenny – shows photoelectric sensor

         U.S. Pat. No. 3,696,464 to Dillon et al. – shows the processing of chicken feet

         U.S. Pat. No. 5,478,990 to Montanari et al. – shows tracking of animal carcasses

         U.S. Pat. No. 5,498,202 to Vande Berg – shows photoelectric sensor

         U.S. Pat. No. 6,104,966 to Haagensen – shows tracking of animal carcasses

         U.S. Pat. No. 6,200,210 to Pratt – shows PLC controls

         U.S. Pat. No. 6,546,304 to Thorvaldsson et al. – shows tracking of carcasses

         U.S. Pat. No. 6,749,497 to Haley et al. – shows inspection of chicken feet

         WO 01/76378 – shows inspection of chicken carcasses

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Parsley
Patent Examiner
Art Unit 3643

PETER M. POON
SUPERVISORY PATENT EXAMINER

11/12/04